

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CIVIL CASE NO.
)	
Plaintiff,)	
)	
v.)	
)	
KENNETH H. DALLAS,)	
TAMIE S. DALLAS,)	
DOROTHY A. DALLAS,)	
RADIOLOGY ASSOCIATES OF)	
CANTON, INC.,)	
AULTMAN HOSPITAL,)	
STARK COUNTY EMERGENCY)	
PHYSICIANS, INC.,)	
DOCTORS HOSPITAL,)	
CANTON AULTMAN EMERGENCY)	
PHYSICIANS, INC.,)	
MID-CENTURY INSURANCE)	
COMPANY,)	
OHIO DEPARTMENT OF TAXATION,)	
and TREASURER OF TUSCARAWAS)	
COUNTY, OHIO,)	
)	
Defendants.)	

COMPLAINT

The plaintiff United States of America, by its attorney, William J. Edwards, United States Attorney for the Northern District of Ohio, pursuant to 26 U.S.C. § 7401, with the authorization

of a delegate of the Secretary of the Treasury and at the direction of the Attorney General, hereby asserts this action to (1) reduce to judgment certain unpaid federal tax assessments made against Kenneth H. Dallas, and (2) foreclose the tax liens of the United States upon the real property known as 9204 Sandyville Road NE, Mineral City, Ohio (the “Property”), and for its complaint alleges as follows:

1. Jurisdiction over this action is conferred upon the Court in 28 U.S.C. §§ 1331, 1340 and 1345, and 26 U.S.C. §§ 7402(a) and 7403.
2. The defendant Kenneth H. Dallas, the taxpayer, resides within the jurisdiction of this Court.
3. The defendant Tamie S. Dallas is the taxpayer’s spouse and resides within the jurisdiction of this Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that she has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.
4. The defendant Dorothy A. Dallas is the taxpayer’s former spouse and resides within the jurisdiction of this Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that she has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.
5. The defendant Radiology Associates of Canton, Inc., is subject to the jurisdiction of the Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that it has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.
6. The defendant Aultman Hospital is subject to the jurisdiction of the Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the

reason that it has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.

7. The defendant Stark County Emergency Physicians, Inc., is subject to the jurisdiction of the Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that it has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.
8. The defendant Doctors Hospital is subject to the jurisdiction of the Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that it has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.
9. The defendant Canton Aultman Emergency Physicians, Inc., is subject to the jurisdiction of the Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that it has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.
10. The defendant Mid-Century Insurance Company is subject to the jurisdiction of the Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that it has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.
11. The defendant Ohio Department of Taxation is subject to the jurisdiction of the Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that it has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.

12. The defendant Treasurer of Tuscarawas County, Ohio, is located within the jurisdiction of the Court and is named as a defendant in this action pursuant to 26 U.S.C. § 7403(b), for the reason that it has, or may claim, an interest in the Property upon which the United States seeks to foreclose its liens.

COUNT I

13. The allegations of paragraphs 1 through 2, above, are realleged and incorporated by reference in this count as though fully set forth.
14. On the following dates, a delegate of the Secretary of the Treasury made assessments against the defendant Kenneth H. Dallas for unpaid federal income taxes, penalties, and interest for the following taxable years, on the following dates, and in the following amounts, with balances due as of July 13, 2009, and after which Notices of Federal Tax Liens were filed and re-filed as follows:

Tax Year	Date of Assessment	Type of Assessment	Assessed Amount	Balance Due as of 7/13/09	Date NFTL Filed*
1994	9/13/99	Tax	\$18,938.00	\$61,936.12	10/27/03 4/27/09**
	9/13/99	Estimated Tax Penalty	\$982.72		
	9/13/99	Late Filing Penalty	\$4,734.50		
	9/13/99	Interest	\$10,935.50		
	11/26/07	Failure to Pay Tax Penalty	\$4,734.50		
	5/18/09	Fees and Collection Costs	\$8.00		

*Notices of Federal Tax Lien (“NFTL”) filed with the Tuscarawas County, Ohio Recorder.

**NFTL re-filed with the Tuscarawas County, Ohio Recorder.

1995	9/13/99	Tax	\$4,348.00	\$15,385.37	10/27/03 4/27/09**
	9/13/99	Late Filing Penalty	\$1,087.00		
	9/13/99	Estimated Tax Penalty	\$235.77		
	9/13/99	Interest	\$1,813.49		
	11/23/07	Failure to Pay Tax Penalty	\$1,087.00		
1996	9/13/99	Tax	\$12,318.00	\$41,020.68	10/27/03 4/27/09**
	9/13/99	Estimated Tax Penalty	\$655.64		
	9/13/99	Late Filing Penalty	\$2,771.55		
	9/13/99	Failure to Pay Tax Penalty	\$1,786.11		
	9/13/99	Interest	\$3,344.49		
	11/17/03	Fees and Collection Costs	\$8.00		
	11/26/07	Failure to Pay Tax Penalty	\$1,293.39		
2001	9/13/04	Tax	\$89,274.00	\$201,603.65	1/23/06
	9/13/04	Estimated Tax Penalty	\$3,532.84		
	9/13/04	Late Filing Penalty	\$20,086.65		
	9/13/04	Failure to Pay Tax Penalty	\$12,944.73		
	9/13/04	Interest	\$14,039.90		
	2/13/06	Fees and Collection Costs	\$8.00		
	11/26/07	Failure to Pay Tax Penalty	\$9,373.77		
2002	10/23/06	Tax	\$26,304.00	\$53,692.54	3/22/07
	10/23/06	Estimated Tax Penalty	\$879.01		
	10/23/06	Late Filing Penalty	\$5,918.40		
	10/23/06	Failure to Pay Tax Penalty	\$4,734.72		
	10/23/06	Interest	\$7,057.56		
	4/9/07	Fees and Collection Costs	\$8.00		
Total				\$373,638.36	

15. A delegate of the Secretary of the Treasury of the United States properly issued notice of the assessments described in paragraph 14, above, to the defendant Kenneth H. Dallas and made demand for payment.
16. Despite such notice and demand, the defendant Kenneth H. Dallas has failed, neglected, or refused to pay the amounts of the assessments in full, and, after the application of all abatements, payments and credits, he remains indebted to the United States for unpaid federal income taxes, interest, penalties, and other

statutory additions in the total amount of \$373,638.36, plus interest and other statutory additions from July 13, 2009.

COUNT II

17. The allegations of paragraphs 1 through 16, above, are realleged and incorporated by reference in this count as though fully set forth.
18. The Property upon which the United States seeks to foreclose its federal tax liens is commonly known as 9204 Sandyville Road NE, Mineral City, Ohio, and is situated within the Northern District of Ohio. The Property, being the premises conveyed to Kenneth H. Dallas and Dorothy A. Dallas by deed of Greta D. Harvey, dated July 10, 1972, and recorded October 26, 1972, with the Tuscarawas County Recorder at Book 493, Pages 638-641, is legally described as follows:

Situated in the Township of Sandy, County of Tuscarawas, and State of Ohio:

TRACT 1: The said tract of land lying and being in the township of Sandy being Lot #3, part of a 1000 acre tract of range one (1) section thee (3) and township ten (10) of the U. S. Military District and more particularly described in a deed executed by John Jacob Hupmoul to Tobias Birk, bearing date of April 9th, 1842, containing fifty acres more or less excepting a tract of land sold to the Valley Railroad on August 7th, 1882, described as follows: Situated in the township of Sandy, count of Tuscarawas and State of Ohio, and is known as a strip of land varying in width from 60 feet to 100 feet extending for a distance of 1364 feet across the lands of said grantors one half of said strip lying on either side of the center line of the Valley Railway as now located and staked, said strip being at the N. line of said grantor's land, 60 feet in width that is—say thirty feet on either side of said center line, thence increasing in width to 100 feet in a distance of 177 feet; thence 100 feet in width for a distance of 300 feet thence decreasing to 60 feet in width in a distance of 200 feet, thence 60 feet in width for a distance of 260 feet, thence decreasing in width to 60 feet at the south line of said grantor's land, said widths being

measure at right angles to the center line of the Valley Railway and said distances being measured from the intersection of said center line with the north line of said grantor's land containing 2.4555 acres more or less. Also excepting a tract of land sold to the Ridgway Burton Co., described as follows:

Situated in County of Tuscarawas, State of Ohio and Township of Sandy and bounded and described as follows viz: Being a fraction out of the S.E. corner of Lot #3, Township 10, Range 1, commencing at said S.E. corner of said Lot #3, thence N. on the W. line of the Valley Railway a distance of twelve feet to a post in the wire fence on said Railway line; thence S.W. a distance of 10 feet to a point on the S. line of said lot 16 and ½ feet west from said S.E. corner; thence E. with said S. line to place of beginning containing about one half of one square rod and being triangular in form.

TRACT 2: Situated in the township of Sandy, Tuscarawas County, State of Ohio, and known as part of Lot No. 6 in a subdivision of lots made by J. M. Bimeler in the third quarter of township ten, range one, commencing at the N.W. corner of lands of A. Davis at the S. line of Jacob Birk's lands; thence S. along said Davis' W. line a distance of 30 rods and 13 feet; thence westward parallel with the west line of Jacob Birk and 15 rods distant therefrom to E. line of Leonard Stahl; thence N. along said Stahl's E. line to S. line of Jacob Birk; thence along said line eastward to place of beginning, containing 2-7/8 acres and being same land conveyed by Fred Stahl to grantor by deed dated April 12th, 1899, recorded in Vol. 129, Pages 526-527 Tuscarawas County Records.

TRACT 3: Also one other tract of land in the same township, county and State and being part of the 3rd quarter of Township ten, Range one, commencing at a point on the S. line of Henry Stahl's land and on the easterly side of private roadway used by grantor and Fred Stahl in comon to reach highway; thence east along said Henry Stahl's line to W. line of Jacob Birk being a distance of 13 rods 13 ½ feet; thence southward along the west line of said Jacob Birk and the above described tract a distance of 34 rods to private roadway used by Fred Stahl; thence north-westward along said last named roadway to private road leading to grantor's farm being a distance of 17 rods 10-2/3 feet; thence along said private roadway a distance of 27 rods to the place of beginning containing 2-88/100 acres. Reserving however the coal and minerals heretofore sold. Said grantee may have the right to use said private roadway so used by grantor and Fred Stahl but for such privilege he shall assist

in maintaining the same.

Also transferring to the Grantees, their heirs and assigns, all right, title and interest of the Grantor in Oil and Gas Lease to The Natural Gas Company of West Virginia, recorded at Volume 44, Page 346 of the Lease Records of Tuscarawas County, Ohio, including all royalty payments accruing thereunder that are payable after the date of this deed.

Saving and Accepting the following tracts:

EXCEPTED TRACT A:

Being a 1.025 acre tract conveyed to Herman Cugliari, et al., 12/6/60 and recorded at Volume 402, Page 241 of the Deed Records of Tuscarawas County, Ohio and described as follows:

Situated in the Township of Sandy, Tuscarawas County and State of Ohio, and being a part of Lot #3 in Bimeler's Subdivision in the Third Quarter of Township 10, Range 1 and being more fully described as follows: Beginning at a stone at the N.E. corner of Lot #3; thence with the N. line thereof, N. 87° 29 min. W., 224.5 feet to a point in County Road #107; thence leaving the lot line and in said road the following two (2) courses, S. 20° 03 min. E., 144.9 feet and S. 36° 11 min. E., 275.15 feet to a point on the east line of said lot; thence leaving the road and with the lot line, N. 2° 00 min. E., 348.55 feet to the place of beginning, containing 1.025 acre, more or less, but subject to all legal highways.

EXCEPTED TRACT B:

Being a 1.207 acre tract conveyed to Walter L. Deubner, et al., 11/1/63 and recorded at Volume 428, Page 595 of the Deed Records of Tuscarawas County, Ohio, and described as follows:

Situated in the Township of Sandy, Tuscarawas County, Ohio, and being a part of Lot Number 3 in Bimeler's Subdivision in the Third Quarter of Township 10, Range 1 and being more fully described as follows: Beginning at a point on the east line of Lot #3 in County Road #107 and being also the most southerly corner of a 1.025 acre tract heretofore conveyed to Herman Cugliari by deed recorded in Volume 402, Page 241 of County Deed Records, said point being located S. 2° 00 min. W., along the lot line, 348.55 feet from a stone at the N.E. corner thereof; thence from said beginning and in said road and with the Southwesterly line of the 1.025 acre tract the following two courses, N. 36° 11 min. W. 275.15 feet and N. 20° 03 min. W., 144.9 feet to the most westerly corner of the 1.025 acre tract on the N. line of Lot #3; thence leaving the road and with the lot line, N. 87° 29 min. W.,

43.35 feet to an iron pin; thence continuing N. 87° 29 min. W., 180.75 feet to a point on the easterly right of way line of the railroad; thence with said right of way line, south 2° 17 min. W., 84.7 feet to a point in Township Road #380; thence in said road, S. 57° 11 min. E., 522.8 feet to the place of beginning, containing 1.207 acre, more or less, but subject to all legal highways.

19. Kenneth H. Dallas and Dorothy A. Dallas were divorced by decree of the Court of Common Pleas of Stark County, Ohio on July 14, 1989. As part of the divorce agreement, Dorothy A. Dallas agreed to quitclaim her interest in the Property to Kenneth H. Dallas subject to a mortgage to be granted to her for certain monetary payments.
20. The federal tax liens against Kenneth H. Dallas should be foreclosed upon the Property, the Property should be sold free and clear of any rights, titles, claims, or interests of the parties, and the proceeds of the sale should be distributed according to law.

WHEREFORE, the plaintiff United States of America requests that this Court:

- A. Enter judgment in favor of the United States and against the defendant Kenneth H. Dallas in the amount of \$373,638.36, plus interest and other statutory additions from July 13, 2009, for his unpaid federal income tax liabilities and accruals described in paragraph 9, above;
- B. Determine and adjudge that the United States has valid and subsisting federal tax liens on all property and rights to property of the defendant Kenneth H. Dallas, including the Property;
- C. Order the federal tax liens for the liabilities of Kenneth H. Dallas be foreclosed upon the Property, and that the Property may be sold by an officer of this Court,

according to law, free and clear of all rights, titles, claims, and interests of the parties to this action, with the net proceeds of the sale, after the satisfaction of the direct costs of the sale and any local real estate taxes due and owing, to be allocated among the interests of the defendants in accordance with their lawful priorities (to be determined by the Court); and

- D. Award the United States its costs in the action, and such other and further relief as the Court deems just and proper.

DATED: September 11, 2009

WILLIAM J. EDWARDS
United States Attorney

/s/ Edward J. Murphy

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